

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

| | | |
|-----------------------------------|---|---------------------------|
| FLUXO-CANE OVERSEAS LTD. and |) | |
| MANOEL FERNANDO GARCIA, |) | |
| |) | |
| Plaintiffs, |) | No. 08 Civ. 2432 |
| |) | |
| v. |) | Honorable Judge Cederbaum |
| |) | |
| NEWEDGE USA, LLC (f/k/a FIMAT USA |) | |
| LLC), |) | |
| |) | |
| Defendant. |) | |

DECLARATION OF LAURENT CUNIN

1. I am over the age of 21 and am competent to testify as to the statements set forth in this declaration.

2. I am the Head of Sales, Americas, (Branch Manager NY) of Newedge USA, LLC (f/k/a FIMAT USA LLC) ("Newedge").

3. This affidavit is submitted in response to the above-captioned lawsuit filed by Fluxo-Cane Overseas LTD and Manoel Fernando Garcia (collectively, "Plaintiffs") against Newedge.


4. I understand Plaintiffs filed this lawsuit in response to a Notice of Arbitration Newedge filed against Plaintiffs with ICE Futures U.S., Inc. (the "Exchange").

5. I am aware Newedge's Notice of Arbitration seeks damages of \$5,106,889.59, resulting from a loss arising out of transactions from Fluxo-Cane's account, which is personally guaranteed by Mr. Garcia.

6. The \$5,106,889.59 loss arose from losses on trades on the Exchange that Newedge as Clearing Broker maintained in an account for Plaintiffs, and Plaintiffs' failure to satisfy the loss. Newedge, as Clearing Broker, was required to pay to the Exchange, on behalf of Plaintiffs, the amount of the loss, \$5,106,889.59. The loss, therefore, arose directly from transactions carried out on the Exchange.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2008.



Laurent Cunin